From: Alex Klein
Sent: Tuesday, October 28, 2008 3:01 PM
To: Cheryl Alexander
Cc: Paul Lain; Harold Barrett; Sunil Weerakkody
Subject: FW: Clarification of the Enforcement Discretion Policy
Attachments: 10-28-08_NRC_Clarification of the Enforcement Discretion Policy.pdf

Cheryl,

Please ensure that the email from NEI and its attachment are put into ADAMS and made publicly available. Thank you.

From: BELL, Denise [mailto:dxb@nei.org]
Sent: Tuesday, October 28, 2008 2:36 PM
Subject: Clarification of the Enforcement Discretion Policy

October 28, 2008

Mr. John A. Grobe
Associate Director for Engineering and Safety Systems
U.S. Nuclear Regulatory Commission
Mail Stop O13 D-13
Washington, DC 20555

Subject: Clarification of the Enforcement Discretion Policy, as related to the License Amendment Proposal for Plants Transitioning to 10 CFR 50.48(c).

Project Number: 689

Dear Mr. Grobe:

The Nuclear Energy Institute (NEI) is requesting clarification of the NRC's recently revised "Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues" (73 Fed. Reg. 52705; September 10, 2008 (Interim Policy)). Specifically, NEI requests clarification of whether the NRC will exercise enforcement discretion with respect to existing identified non-compliances, and non-compliances identified during the 10 CFR 50.48(c) transition process, in the event that a license amendment request (LAR) submitted pursuant to 10 CFR 50.48(c) is rejected (without an opportunity to resubmit) or denied by the NRC staff.

While the Interim Policy does not directly address this scenario, we are concerned that, going forward, the enforcement discretion period would end if an LAR is rejected (without an opportunity to resubmit), or is denied. [See 73 Fed. Reg. 52705 ("The discretion period would

continue until the NRC dispositioned the LAR.") and 73 Fed. Reg. 52706 ("The enforcement discretion will continue to be in place, without interruption, until NRC approval of the license amendment request to transition to 10 CFR 50.48(c)).]

Sincerely,

Alexander Marion

Alexander Marion
Executive Director,
Operations and Engineering

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